

JPA File No.: 07-107 I  
AG Contract No.: P001 2007 004280  
Project: Replace flexible delineator  
tubes with concrete median curb  
Section: Airway Avenue between  
Townsend & SR 66  
**TRACS No.: H7412 01C**  
**Budget Source Item No.: District**  
**Minor Funds**

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
CITY OF KINGMAN

**THIS AGREEMENT** is entered into this date February 4th, 2008, pursuant to the Arizona Revised Statutes § 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF KINGMAN, acting by and through its MAYOR and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

### I. RECITALS



1. The State is empowered by Arizona Revised Statutes § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. For the safety and benefit of the traveling public, the State and City agree to participate in a project on Airway Avenue between Townsend & East Andy Devine Avenue (aka SR 66). Existing flexible delineator tubes that separate eastbound and westbound traffic on Airway Avenue are continuously being damaged by traffic. The State will design and construct the proposed project, installing a concrete median curb in-lieu-of the flexible delineator tubes. Also, asphalt will be repaired in the eastbound through / right-turn lane in the vicinity of the north driveway of the Airway Express gas station. Furthermore, curb and sidewalk will be constructed along the northern perimeter of Airway Avenue to provide pedestrians continuous access from the NWC of the Airway Avenue and SR 66 intersection to the east. The State will fund the design and construction, whereas each party will maintain its section of Airway Avenue collectively hereinafter referred to as the "Project".

**THEREFORE**, in consideration of the mutual covenants expressed herein, it is agreed as follows:

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NO. 291052  
Filed with the Secretary  
Date Filed: 2-4-08  
  
Secretary  
By: 

**II. SCOPE OF WORK**

## 1. The State shall:

a. Be responsible for design plans, specifications, and all other documents required for construction bidding and construction of the Project, and coordination with the City for review of the above-mentioned documents, and incorporation of their review comments as appropriate.

b. Advertise for bids, award contract for construction, and make all payments to the contractor. Be responsible for any design consultant or contractor claims for extra compensation due to delays attributable to the State. Such Project to be performed (including quality assurance), completed, accepted and paid for in accordance with the requirements of the Project Plans, Special Provisions, and Standard Specifications for Road and Bridge Construction of the Arizona Department of Transportation (ADOT).

c. Upon completion of the Project, coordinate with the City on final inspection of the Project, plus maintain the roadway improvements within the State's right-of-way on Airway Avenue.

## 2. The City shall:

a. Review the design documents required for construction of the Project as appropriate, and provide comments to the State if needed. Be responsible for any design consultant or contractor claims for additional compensation caused by Project delays attributable to the City.

b. Grant the State a temporary Right of Access to perform all construction work required on City right-of-way as shown on related project plans.

c. Upon completion of the Project, coordinate with the State on final acceptance of the Project, plus maintain the roadway improvements within the City's right-of-way on Airway Avenue.

**III. MISCELLANEOUS PROVISIONS**

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements; provided herein. However, any provisions for maintenance provided by the City shall be perpetual. This Agreement may be cancelled at any time prior to the award of the construction contract, upon a thirty-day (30) written notice to either party. It is understood and agreed that, in the event the City terminates this Agreement, the State shall in no way be obligated to provide maintenance to property or facilities within the City's right-of-way, and all obligations shall survive the termination of this Agreement.

2. This Agreement shall become effective upon filing with the Secretary of State.

3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.

4. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.

5. In the event of any controversy, which may arise out of this Agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.

6. All notices or demands upon any party to this Agreement shall be in writing and shall be delivered in person or sent by mail, addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 S. 17<sup>th</sup> Avenue, Mail Drop 616E  
Phoenix, Arizona 85007  
(602) 712-7525  
(602) 712-7424 Fax

City of Kingman  
Attn: Public Works Director  
310 N. 4<sup>th</sup> Street  
Kingman, Arizona 86401  
(928) 692-3101  
(928) 757-8340 Fax

7. This Agreement is subject to all applicable provisions of the Americans with Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable Federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

8. Non-Availability of Funds: Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated or allocated for the payment of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments as a result of termination under this paragraph.

9. In accordance with Arizona Revised Statutes § 11-952 (D) attached hereto and incorporated herein is the written determination of each party's legal counsel and that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

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IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written.

**CITY OF KINGMAN**

By

  
LESTER BYRAM  
Mayor

**STATE OF ARIZONA**

Department of Transportation

By

  
DOUGLAS A. FORSTIE, P.E.  
Deputy State Engineer, Operations

ATTEST:

By

  
DEBORAH FRANCIS  
Clerk

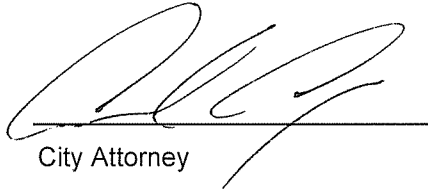
G:\Kingman Airway Ave candle marker replacement  
Initial draft 10/1/07 ghc  
Draft with District comments 10/9/07 ghc  
Revisions per City comments 11/16/07 ghc

**ATTORNEY APPROVAL FORM FOR THE CITY OF KINGMAN**

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 10<sup>th</sup> day of January, 2008.

  
\_\_\_\_\_  
City Attorney

**CITY OF KINGMAN**  
**REGULAR MEETING OF THE COMMON COUNCIL**  
Council Chambers  
310 N. 4<sup>th</sup> Street

**6:00 PM**

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**MINUTES**

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**Monday, January 07, 2008**

<b>Members:</b>	<b>Officers:</b>	<b>Visitors Signing In:</b>
L. Byram. Mayor	J. Kramer. Acting City Manager	See attached
D. French. Vice Mayor	C. Cooper. City Attorney	
T. Carter	D. Francis. City Clerk	
K. Deering	J. Marshall. Deputy City Clerk	
R. Lyons	G. Jeppson. Development Services Director	
T. Spear	C. Loyd. Finance Director	
J. Watson	G. Henry. City Engineer	
	R. DeVries. Chief of Police	
	J. Walker. Human Resource Director	
	R. Owen. Special Projects	

**REGULAR MEETING**

Mayor Byram called the Regular Meeting to order at 6:00 P.M. and roll call was taken. All Council Members were present. The Invocation was given by Pastor Steve McCall of the Desert Church of Christ. after which, the Pledge of Allegiance was said in unison.

THE COUNCIL MAY GO INTO EXECUTIVE SESSION FOR LEGAL COUNSEL IN ACCORDANCE WITH A.R.S.38-431.03(A) 3 TO DISCUSS ANY AGENDA ITEM. THE FOLLOWING ITEMS MAY BE DISCUSSED. CONSIDERED AND DECISIONS MADE RELATING THERETO:

**1. APPROVAL OF MINUTES**

The Work Session (Retreat) Minutes of December 12, 2007 and Regular Meeting minutes of December 17, 2007

Councilmember Watson made a MOTION to APPROVE the Work Session minutes of December 12, 2007 and the Regular Meeting Minutes of December 17, 2007. Vice Mayor French SECONDED and the MOTION CARRIED UNANIMOUSLY.

Councilmember Watson thanked Deputy City Clerk Jenna Marshall for her hard work on the retreat minutes.

### **3. CONSENT AGENDA**

All matters listed here are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the CONSENT AGENDA and will be considered separately.

**a. Liquor License Application #10083203**

Agent and applicant William Bullen of Gas-N-Grub/Dairy-N-Sub located at 2201 Hualapai Mountain Road, Kingman, Arizona has applied for a Series 10, Beer and Wine only Liquor License and Section 5 Interim Permit. **Staff recommends approval of Liquor License #10083203.**

**b. Liquor License Application – Special Event**

Agent and applicant Beverly Liles of Kingman Area Chamber of Commerce, has applied for a Special Event Liquor License for the date of February 9, 2008, from 6 pm to 11 pm, for a fundraiser. This event is to be held at the Powerhouse, located at 120 W. Andy Devine Avenue, Kingman, Arizona. **Staff recommends approval of this special event.**

**c. Acceptance of Public Easement from Airport Partners Commercial Facilities**

New site construction for the Airport Partners Commercial Facilities at 4755 Interstate Way at the Kingman Airport Industrial Park requires the construction of a new waterline and installation of a fire hydrant. These improvements are outside of any existing utility easements or street Right-Of-Way. The developer is offering to grant a Public Utility Easement for the new waterline and fire hydrant. **Staff recommends that the Mayor be authorized to sign the Acceptance of this Grant of Public Utility Easement.**

**d. Resolution No. 4491 – Accepting cash payment in lieu of street improvements**

The configuration of the Betty Lane Right-Of-Way as it intersects West Beale Street was deemed unacceptable by the Arizona Department of Transportation (ADOT) due to slope, width and alignment. On June 5, 2006 Resolution No. 4308 was approved authorizing the dedication of right-of-way along Betty Lane in lieu of requiring the completion of required sidewalk improvements. On December 17, 2007 the City Council accepted the Deed of Dedication for the right-of-way. On December 20, 2007 the Traffic Safety Committee recommended approval of the deferral of street improvements as the entire street needs to be improved at one time. **Staff recommends approval of Resolution No. 4491.**

**e. Intergovernmental Agreement with the State of Arizona – new street improvements within the City's Right-Of-Way on Airway west of State Route 66**

To enhance public safety and repair existing conditions, the Arizona Department of Transportation (ADOT) Kingman District plans to complete various street improvements on Airway Avenue from Townsend Street to State Route 66. The street improvements will include replacing the existing delineator tubes separating eastbound and westbound traffic on Airway Avenue with a concrete median, installing

curb and sidewalk along the north side of Airway Avenue to provide continuous sidewalk section to State Route 66. and repair the section of pavement on the eastbound lane of Airway Avenue near the north driveway for the gas station located at the southwest corner of the intersection of Airway Avenue and State Route 66. **Staff recommends authorizing the Mayor to sign JPA 07-107 with ADOT.**

**f. Resolution No. 4492**

The Arizona Department of Water Resources (ADWR) is the state agency responsible for the coordination of the Federal Emergency Management Agency's National Flood Insurance Program and for providing technical assistance to local communities regarding floodplain management. It was determined that the current City resolution for floodplain management, Resolution No. 939R needed to be updated. **Staff recommends approval of Resolution No. 4492.**

**g. Resolution No. 4493 – payment to Panda Restaurant Group for acquisition of seven feet of right-of-way**

Attached is a letter of agreement with Panda Restaurant Group to pay for a seven foot strip of land along Stockton Hill Road in the frontage portion of the new Panda Express Restaurant at 3370 Stockton Hill Road. The property has been appraised by Taylor T. Ross and Associates for \$34,300.00 (\$28.00 a square foot). Panda Express paid \$10,575.36 in Transportation Development Investment Fees and is willing to accept this amount for the City to acquire the 7 foot by 175 foot strip of land for right-of-way. The City will pay \$8,633 a square foot for the land. **Staff recommends approval of Resolution No. 4493.**

**h. Street Department Asphalt Paving for Fiscal Year 2007/2008 – Change Order**

On August 20, 2007 Council approved a contract to Combs Construction for our milling and paving contract. this contract also included valve and manhole re-adjustments. The milling and paving portion of this project is completed. The purchase order created for this project was based on the estimated square yards for milling and paving and for an estimated number of valve and manhole adjustments as bid. The actual completed square yards for milling and paving has exceeded the estimated Highway User Revenue Funds (HURF) cost included in the purchase order by \$40,000.00. The Street Department is requesting authorization to increase the purchase order amount for this project by \$40,000.00 from available HURF budget funds. This increase will bring the total fiscal impact to \$762,411.00. **Staff recommends approval.**

**i. Award of Bids**

**- Sewer Equipment Company of America Model 444 Sectional Rodder**

The Model 444 Sectional Sewer Rodder is a mechanical sewer cleaner that removes root intrusion in the City's Collection System. It will replace the 1971 O'Brian Sectional Rodder (unit 752). The bid price from Titan Sales Group is \$33,009.96 which is under the \$40,000.00 2007/2008 budgeted amount for this equipment. **Staff recommends awarding the bid to Titan Sales Group in the amount of \$33,009.96.**

**7. CALL TO THE PUBLIC - COMMENTS FROM THE PUBLIC**

Those wishing to address the Council should fill out request forms in advance. Action taken as a result of public comments will be limited to directing staff to study the matter or rescheduling the matter for consideration and decision at a later time. Comments should be limited to no longer than 5 minutes.

**The Call to the Public was opened and after no comments was closed.**

**Councilmember Lyons made a MOTION to ADJOURN. Vice Mayor French SECONDED and the MOTION CARRIED UNANIMOUSLY.**

**ADJOURNMENT**

ATTEST:

APPROVED:

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Deborah Francis  
City Clerk

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Lester Byram, Mayor

STATE OF ARIZONA)  
COUNTY OF MOHAVE)ss:  
CITY OF KINGMAN)

**CERTIFICATE OF COUNCIL MINUTES**


I, Jenna Marshall, Deputy City Clerk of the City of Kingman, Arizona, hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular Meeting of the Common Council of the City of Kingman held on January 7, 2008.

Dated this 8<sup>th</sup> day of January 2008

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Jenna Marshall, Deputy City Clerk



<p>TERRY GODDARD Attorney General</p>	 <p>OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan.Davis@azag.gov</p>
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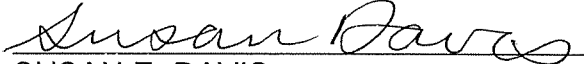
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. P0012007004280 (**JPA 07-107-I**), an Agreement between public agencies, i.e., The State of Arizona and City of Kingman, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: January 29, 2008

TERRY GODDARD  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

SED:mjf:133507  
Attachment